

May 1, 2023

BY EMAIL AND ECF

Hon. Loretta A. Preska
United States District Court
for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Courtroom 12A
New York, New York 10007-1312

Re: Aurelius Capital Master, Ltd. v. The Republic of Argentina,
No. 19 Civ. 351 (LAP) (S.D.N.Y.);

Novoriver S.A. v. Argentine Republic,
No. 19 Civ. 9786 (LAP) (S.D.N.Y.);

ACP Master, Ltd. v. The Republic of Argentina,
No. 19 Civ. 10109 (LAP) (S.D.N.Y.);

683 Capital Partners, LP v. The Republic of Argentina,
No. 19 Civ. 10131 (LAP) (S.D.N.Y.);

Adona LLC, Egoz I LLC, Egoz II LLC, Mastergen, LLC,
Erythrina, LLC, AP 2016 1, LLC, AP 2014 3A, LLC, AP 2014 2, LLC,
and WASO Holding Corp. v. The Republic of Argentina,
No. 19 Civ. 11338 (LAP) (S.D.N.Y.);

Ape Group SPA, Romano Consulting SPA, Icaro SRL, and Elazar
Romano v. The Republic of Argentina,
No. 20 Civ. 10409 (LAP) (S.D.N.Y.).

Dear Judge Preska:

We write on behalf of plaintiffs Aurelius Capital Master, Ltd. (“Aurelius”); Novoriver S.A. (“Novoriver”); ACP Master, Ltd. (“ACP Master”); 683 Capital Partners, LP (“683 Capital”), Adona LLC, Egoz I LLC, Egoz II LLC, Mastergen, LLC, Erythrina, LLC, AP 2016 1, LLC, AP 2014 3A, LLC, AP 2014 2, LLC, and WASO Holding Corporation (the “Adona Plaintiffs”); and Ape Group SpA, Romano Consulting SpA, Icaro SRL and Elazar Romano (the “Ape Plaintiffs” and, together with Aurelius, Novoriver, ACP Master, 683 Capital, and the Adona Plaintiffs, the “Plaintiffs”), in response to the Court’s Order of April 17, 2023 (19 Civ. 351 Dkt. No. 138) (the “April 17 Order”).

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Defendant the Republic of Argentina (the “Republic”) moved for summary judgment in the above-referenced actions on April 14, 2023. (19 Civ. 351 Dkt. Nos. 132, 134-37.) The Republic requested leave to file portions of its summary judgment motion papers, including certain specified exhibits, under seal because those materials were (or reflected) “Plaintiffs’ produced documents and documents produced by third parties and designated Confidential under the Protective Order, as well as excerpted portions of Plaintiffs’ expert reports and excerpted portions of deposition transcripts that Plaintiffs have designated Confidential under the Protective Order. (19 Civ. 351 Dkt. No. 133.) The Court’s April 17 Order directed “[t]he persons or entities that designated the referenced materials as confidential [to] inform the Court of the basis for sealing by May 1, 2023.”

Plaintiffs have reviewed the referenced materials that they designated as confidential¹ and respond to the April 17 Order as set forth below. Except for item 1, which represents the position of all Plaintiffs, each Plaintiff (or group of Plaintiffs) responds on its own behalf and takes no position as to the responses of any other Plaintiff. For the Court’s convenience, the positions set forth in this letter are summarized in the charts attached hereto as **Appendix A**.

1. Materials designated by all Plaintiffs

- a. The Republic referenced expert reports and transcripts of depositions of expert witnesses that constitute or reflect materials designated as confidential by all Plaintiffs. Plaintiffs do not seek to maintain their confidentiality assertions as to these materials and consent to the unsealing of (i) Exhibit Nos. 11, 12, 13, 14 (except to the extent described in items 3(a)(i) and 5(c)(i)(1), below), 32, 33, 57, 99, 123, and 179 to the Giuffra Declaration.
- b. Likewise, Plaintiffs consent to the removal of the following redactions applied to the Republic’s Brief and 56.1 Statement:
 - i. Brief: page 5; page 11; page 35; pages 47-48; and page 49.
 - ii. 56.1 Statement: ¶¶ 11-12, ¶¶ 30-36, ¶ 66, ¶¶ 73-78, ¶ 80, ¶ 85, ¶ 127, ¶ 134, ¶ 150, ¶ 155, ¶¶ 159-63, and ¶ 165.

¹ This letter does not address Exhibit Nos. 17, 22, 23, 25, 29, 34, 43, 44, 45, and 46 to the Declaration of Robert J. Giuffra, Jr. Declaration (the “Giuffra Declaration”). Those exhibits were designated as confidential by non-parties and the April 17 Order directed that “[t]o the extent the proponent is a third-party, the Republic shall notify the third-party of this order as soon as possible.” Plaintiffs take no position as to the sealing of the foregoing exhibits or as to the corresponding references to those exhibits in the Republic’s Memorandum of Law in support of its summary judgment motion (19 Civ. 351 Dkt. No. 136) (the “Brief”) or in the Republic’s Statement under Local Rule 56.1 filed in support of its summary judgment motion (Dkt. No. 137) (the “56.1 Statement”).

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2. Materials designated by Aurelius and ACP Master

- a. Aurelius and ACP Master consent to the unsealing of Exhibit Nos. 52, 53, 54, 56, 94, 100, 101, 104, 146, 169, and 170 to the Giuffra Declaration.
- b. Aurelius and ACP Master seek to maintain information in the column titled “Broker” in Exhibit No. 160 under seal. That column provides information about the identity and location of the various brokers with whom Aurelius and ACP Master have transacted with respect to the Republic’s GDP Warrants. Aurelius’s and ACP Master’s relationships with their brokers—including how they allocated trading requests among their brokers—constitutes commercially sensitive information, just as any company’s allocation of business among its various suppliers and vendors is commercially sensitive. Accordingly, it is appropriate to maintain the information in the “Broker” column under seal. *See, e.g., Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015) (Preska, J.) (sustaining redactions to summary judgment materials that were “limited to specific business information and strategies, which, if revealed, ‘may provide valuable insights into a company’s current business practices that a competitor would seek to exploit.’”).
- c. Aurelius and ACP Master will submit a redacted version of Exhibit No. 160 if the Court grants their request to maintain this information under seal.
- d. Aurelius and ACP Master consent to the removal of the following redactions in the Republic’s Brief and Rule 56.1 Statement:
 - i. Brief: page 8, first paragraph; page 8, first sentence of second paragraph; pages 20-21, footnote 8; and page 22, footnote 9.
 - ii. 56.1 Statement: ¶ 72 (other than the citation to Exhibit No. 55), ¶¶ 124-26, ¶ 134, ¶¶ 169-71, ¶ 176, ¶¶ 195-96, ¶ 214, ¶ 216, and ¶ 217.

3. Materials designated by Novoriver

- a. Novoriver seeks to maintain the following materials under seal:
 - i. Exhibit No. 14 to the Giuffra Declaration, footnote 62, the penultimate sentence (beginning “Antilio [sic]”).

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- ii. Exhibit No. 133 to the Giuffra Declaration, lines 16:15-17:20, lines 19:5-10, and the corresponding portions of the errata sheet.
- iii. The Republic's Brief, footnote 22, the last word in line 2 and first two words in line 3.
- iv. The Republic's Rule 56.1 Statement, in paragraph 172, the first two words of the third line, and in paragraph 197, the remainder of the sentence after "Uruguay."

Sealing this information is narrowly tailored and warranted. The information is non-public and concerns the ownership and control of Novoriver. Information such as the "[f]inancial records of a wholly owned business" is "traditionally considered private rather than public," which "weigh[s] more heavily against access than conduct affecting a substantial portion of the public." *United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995). Novoriver's privacy interest in protecting its proprietary information outweighs the presumption of public access.

Moreover, the information—which comprises only about one page of testimony and a few words among hundreds of pages of the Republic's filings—has no bearing on the adjudication of the parties' substantive rights or the public's ability to assess the issues at summary judgment. This Court has granted sealing of information regarding a private company's "profits and losses, and the structure of its finances," recognizing that this information "is confidential and should remain so," and "is not particularly relevant to the performance of the judicial function." *Range v. 230 W. 41st St. LLC*, Case No.: 1:17-cv-00149-LAP, Dkt. No. 91 (S.D.N.Y. Feb. 13, 2020) (Preska, J.). The same result is warranted here.

4. Materials designated by 683 Capital

- a. 683 Capital consents to the unsealing of Exhibit Nos. 103, 107, 148, 161, 162, 163, 164, 165, and 166 to the Giuffra Declaration.

5. Materials designated by the Adona Plaintiffs

- a. The Adona Plaintiffs consent to the unsealing of Exhibit Nos. 102, 105, 106, 108, 110, 135, 136, and 167 to the Giuffra Declaration.
- b. The Adona Plaintiffs respectfully request that Exhibit No. 168 to the Giuffra Declaration remain under seal. This exhibit contains confidential and sensitive commercial information that is not

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publicly available, including information concerning the methods, modeling, and analysis of an advisor's proprietary research and research from third parties that have not consented to its public disclosure. *See New York v. Actavis, PLC*, No. 14 Civ. 7473, 2014 WL 5353774, at *3 (S.D.N.Y. Oct. 21, 2014) ("Internal documents and unpublished drafts that contain non-public strategies and financial information constitute 'confidential commercial information'["]).

- c. The Adona Plaintiffs respectfully request that Exhibit No. 55 to the Giuffra Declaration be redacted solely to maintain under seal the name and email address of the sender of the email and the individual on the "cc" line with the last name beginning with "C." These redactions are to protect further intrusion into the privacy rights (names and email addresses) of non-parties not relevant to this matter, and also protect sensitive business information that may otherwise be revealed through disclosure.² These redactions are consistent with this Court's February 15, 2022 ruling allowing redaction of irrelevant personal information not germane to the case.

- 1. For the same reasons, the Adona Plaintiffs seek to redact the name of the sender of this email as it appears on the fourth line of footnote 45 of Exhibit No. 14.

- d. The Adona Plaintiffs respectfully request that Exhibit Nos. 150, 152, 154, 156, 158, and 171 to the Giuffra Declaration be narrowly redacted to maintain under seal (i) individualized pricing information with respect to specific purchases or assignments of the GDP Warrants (*i.e.*, information under chart columns "Price" and "Dollar Amount", and the assignment dollar value, which is not currently at issue in this case and discloses non-public acquisition pricing and strategy, and (ii) confidential ownership structures and purchasing entities not at issue in this case and that maintain other investments not related to this case. Such information is not publicly available and provides insight into nonparty business strategy with respect to structuring investments. This Court has acknowledged a party's right to shield business information and strategies the disclosure of which "may provide valuable insights into a company's current business practices that a competitor would seek to exploit." *Louis Vuitton Malletier*, 97 F. Supp. 3d at 511.

² Exhibit No. 55 is also subject to a claw back request to the Republic to implement similar redactions (except keeping the full name of the sender).

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- e. The Adona Plaintiffs will submit redacted versions of Exhibit Nos. 55, 150, 152, 154, 156, 158, and 171 if the Court grants their request to maintain this information under seal.

6. Materials designated by the Ape Plaintiffs

- a. The Ape Plaintiffs consent to the unsealing of Exhibit No. 109 to the Giuffra Declaration.

* * * *

Plaintiffs are available to discuss these matters, and any other matters on the Court's agenda, at the Court's convenience.

Respectfully submitted,

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APPENDIX A**I. Exhibits to the Giuffra Declaration**

Exhibit No.	Designating Party/Parties	Designating Party's Position as to Sealing/Redaction
11	All Plaintiffs	Consent to unseal
12	All Plaintiffs	Consent to unseal
13	All Plaintiffs	Consent to unseal
14	All Plaintiffs	Seek to redact in part; otherwise consent to unseal
17	Non-party	No position
22	Non-party	No position
23	Non-party	No position
25	Non-party	No position
29	Non-party	No position
32	All Plaintiffs	Consent to unseal
33	All Plaintiffs	Consent to unseal
34	Non-party	No position
43	Non-party	No position
44	Non-party	No position
45	Non-party	No position
46	Non-party	No position
52	Aurelius and ACP Master	Consent to unseal
53	Aurelius and ACP Master	Consent to unseal
54	Aurelius and ACP Master	Consent to unseal
55	Adona Plaintiffs	File in redacted form

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Exhibit No.	Designating Party/Parties	Designating Party's Position as to Sealing/Redaction
56	Aurelius and ACP Master	Consent to unseal
57	All Plaintiffs	Consent to unseal
94	Aurelius and ACP Master	Consent to unseal
99	All Plaintiffs	Consent to unseal
100	Aurelius and ACP Master	Consent to unseal
101	Aurelius and ACP Master	Consent to unseal
102	Adona Plaintiffs	Consent to unseal
103	683 Capital	Consent to unseal
104	Aurelius and ACP Master	Consent to unseal
105	Adona Plaintiffs	Consent to unseal
106	Adona Plaintiffs	Consent to unseal
107	683 Capital	Consent to unseal
108	Adona Plaintiffs	Consent to unseal
109	Ape Plaintiffs	Consent to unseal
110	Adona Plaintiffs	Consent to unseal
123	All Plaintiffs	Consent to unseal
133	Novoriver	File in redacted form
135	Adona Plaintiffs	Consent to unseal
136	Adona Plaintiffs	Consent to unseal
146	Aurelius and ACP Master	Consent to unseal
148	683 Capital	Consent to unseal
150	Adona Plaintiffs	File in redacted form

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Exhibit No.	Designating Party/Parties	Designating Party's Position as to Sealing/Redaction
152	Adona Plaintiffs	File in redacted form
154	Adona Plaintiffs	File in redacted form
156	Adona Plaintiffs	File in redacted form
158	Adona Plaintiffs	File in redacted form
160	Aurelius and ACP Master	Seek to redact in part; otherwise consent to unseal
161	683 Capital	Consent to unseal
162	683 Capital	Consent to unseal
163	683 Capital	Consent to unseal
164	683 Capital	Consent to unseal
165	683 Capital	Consent to unseal
166	683 Capital	Consent to unseal
167	Adona Plaintiffs	Consent to unseal
168	Adona Plaintiffs	Maintain under seal
169	Aurelius and ACP Master	Consent to unseal
170	Aurelius and ACP Master	Consent to unseal
171	Adona Plaintiffs	File in redacted form
179	All Plaintiffs	Consent to unseal

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II. Redactions Applied to the Republic's Brief

Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Redaction
Page 5	All Plaintiffs	Consent to remove redaction
Page 8, redaction in first full paragraph	Aurelius and ACP Master	Consent to remove redaction
Page 8, redaction in first sentence of second full paragraph	Aurelius and ACP Master Adona Plaintiffs	Consent to remove redaction Consent to remove redaction
Page 8, redaction in second sentence of second full paragraph	Aurelius and ACP Master 683 Capital Adona Plaintiffs	Consent to remove redaction Consent to remove redaction Consent to remove redaction
Page 11	All Plaintiffs Aurelius and ACP Master Novoriver Adona Plaintiffs	Consent to remove redaction Consent to remove redaction Consent to remove redaction Consent to remove redaction
Pages 20-21, footnote 8	Aurelius and ACP Master	Consent to remove redaction
Page 22, footnote 9	Non-party Aurelius and ACP Master	No position Consent to remove redaction
Page 27, footnote 13	Adona Plaintiffs	Consent to remove redaction
Page 35, body paragraph	All Plaintiffs Aurelius and ACP Master 683 Capital Adona Plaintiffs Ape Plaintiffs	Consent to remove redaction Consent to remove redaction Consent to remove redaction Consent to remove redaction Consent to remove redaction

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Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Redaction
Page 35, footnote 18	All Plaintiffs	Consent to remove redaction
Page 43, footnote 22, first sentence	Novoriver	Seek to redact in part; otherwise consent to remove redaction
Page 43, footnote 22, second sentence	Adona Plaintiffs	Consent to remove redaction
Pages 47-48	All Plaintiffs	Consent to remove redaction
Page 49	All Plaintiffs	Consent to remove redaction
	Aurelius and ACP Master	Consent to remove redaction
	Novoriver	Consent to remove redaction
	Ape Plaintiffs	Consent to remove redaction
	Adona Plaintiffs	Consent to remove redaction

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III. Redactions Applied to the Republic's 56.1 Statement

Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 11	All Plaintiffs	Consent to remove redaction
¶ 12	All Plaintiffs	Consent to remove redaction
¶ 20	Non-party	No position
¶ 21	Non-parties	No position
¶ 26	Non-party	No position
¶ 30	All Plaintiffs	Consent to remove redaction
¶ 31	All Plaintiffs	Consent to remove redaction
¶ 32	All Plaintiffs	Consent to remove redaction
¶ 33	All Plaintiffs	Consent to remove redaction
¶ 34	All Plaintiffs	Consent to remove redaction
¶ 35	All Plaintiffs	Consent to remove redaction
¶ 36	All Plaintiffs	Consent to remove redaction
¶ 39	Non-party	No position
¶ 63	Non-parties	No position
¶ 66	All Plaintiffs	Consent to remove redaction
¶ 72	Aurelius and ACP Master	Consent to remove redaction
¶ 73	All Plaintiffs	Consent to remove redaction
¶ 74	All Plaintiffs	Consent to remove redaction
¶ 75	All Plaintiffs	Consent to remove redaction
¶ 76	All Plaintiffs	Consent to remove redaction
¶ 77	All Plaintiffs	Consent to remove redaction

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Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 78	All Plaintiffs	Consent to remove redaction
¶ 80	All Plaintiffs	Consent to remove redaction
¶ 85	All Plaintiffs	Consent to remove redaction
¶ 123	Adona Plaintiffs	Never designated as confidential Consent to remove redaction
¶ 124	Aurelius and ACP Master	Consent to remove redaction
¶ 125	Aurelius and ACP Master	Consent to remove redaction
¶ 126	Aurelius and ACP Master	Consent to remove redaction
¶ 127	All Plaintiffs	Consent to remove redaction
¶ 134	All Plaintiffs Aurelius and ACP Master 683 Capital Adona Plaintiffs Ape Plaintiffs	Consent to remove redaction Consent to remove redaction Consent to remove redaction Consent to remove redaction Consent to remove redaction
¶ 150	All Plaintiffs	Consent to remove redaction
¶ 155	All Plaintiffs	Consent to remove redaction
¶ 159	All Plaintiffs	Consent to remove redaction
¶ 160	All Plaintiffs	Consent to remove redaction
¶ 161	All Plaintiffs	Consent to remove redaction
¶ 162	All Plaintiffs	Consent to remove redaction
¶ 163	All Plaintiffs	Consent to remove redaction

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Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 165	All Plaintiffs	Consent to remove redaction
¶ 169	Aurelius and ACP Master	Consent to remove redaction
¶ 170	Aurelius and ACP Master	Consent to remove redaction
¶ 171	Aurelius and ACP Master	Consent to remove redaction
¶ 172	Novoriver	Seek to redact in part; otherwise consent to remove redaction
¶ 173	Ape Plaintiffs	Consent to remove redaction
¶ 174	Adona Plaintiffs	Consent to remove redaction
¶ 175	Adona Plaintiffs	Consent to remove redaction
¶ 176	Aurelius and ACP Master	Consent to remove redaction
¶ 195	Aurelius	Consent to remove redaction
¶ 196	ACP Master	Consent to remove redaction
¶ 197	Novoriver	Seek to redact in part; otherwise consent to remove redaction
¶ 198	683 Capital	Consent to remove redaction
¶ 199	Adona Plaintiffs	Consent to remove redaction
¶ 200	Adona Plaintiffs	Consent to remove redaction
¶ 201	Adona Plaintiffs	Consent to remove redaction
¶ 202	Adona Plaintiffs	Consent to remove redaction
¶ 203	Adona Plaintiffs	Consent to remove redaction
¶ 204	Ape Plaintiffs	Consent to remove redaction

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Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 213 (citation to Exhibit No. 160)	Aurelius and ACP Master	Consent to remove redaction
¶ 213 (remainder of paragraph)	Adona Plaintiffs	Maintain redaction
¶ 214	Aurelius 683 Capital	Consent to remove redaction
¶ 215	683 Capital	Consent to remove redaction
¶ 216	Aurelius and ACP Master Adona Plaintiffs	Consent to remove redaction
¶ 217	Aurelius and ACP Master	Consent to remove redaction
¶ 218	Adona Plaintiffs	Consent to remove redaction
¶ 219	Novoriver Ape Plaintiffs	Consent to remove redaction
¶ 220	Adona Plaintiffs	Consent to remove redaction
¶ 224	Adona Plaintiffs	Consent to remove redaction
¶ 225	Adona Plaintiffs	Consent to remove redaction